

B.J. v. Midstate Consultants Issued: 2-19-02

Midstate Consultants and its workers compensation insurance carrier, Industrial Indemnity/Freemont Comp. (jointly referred to as "Midstate") ask the Utah Labor Commission to review the Administrative Law Judge's Amended Supplemental Order, dated November 13, 2001, regarding Ms. J.'s claim for dependents' benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

BACKGROUND AND ISSUE PRESENTED

On November 13, 2001, without any hearing on the matter, the ALJ issued his Amended Supplemental Order restoring Ms. J.'s workers' compensation benefits as the widow of S. J. On December 12, 2001, Midstate filed a motion for review of the ALJ's Amended Supplemental Order. In its motion for review, Midstate contends it is entitled to an adjudicative hearing on the issue of Ms. J.'s right to benefits.

DISCUSSION

In light of the fact that Midstate has not yet had an opportunity to present evidence and argument regarding Ms. J.'s right to additional workers' compensation benefits, the Commission concludes that this matter should be remanded to the ALJ. On remand, the ALJ will conduct such additional proceedings as

are necessary to establish the facts relevant to Ms. J.'s claim. The ALJ will then issue his decision based upon such facts and applicable law. Any party dissatisfied with the ALJ's decision may obtain review at that time by filing a motion for review by either the Commission or Appeals Board.

ORDER

The Commission remands this matter to the ALJ for further proceedings consistent with this decision. It is so ordered.

Dated this 19th day of February, 2002.

R. Lee Ellertson, Commissioner